

Exhibit 70

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK, et al.

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official capacity
as SECRETARY OF THE U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES, et al.,

Defendants.

Case No. 1:25-cv-00196

DECLARATION OF JANE DOE 4

I, Jane Doe 4, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct:

1. I was employed by the Office on Smoking and Health (OSH), part of the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) within the Centers for Disease Control and Prevention (CDC). I have personal knowledge of the facts set forth in this declaration, and if required to testify, would and could competently do so.

2. I am submitting this declaration pseudonymously because I fear retaliation. But if the Court would like to know my name or job position, I would be willing to provide it ex parte and under seal.

3. I submit this Declaration in support of the States' Motion for a Preliminary Injunction.

Professional Background

4. I have worked in OSH for over 10 years.

5. I am providing this declaration to explain the impacts of the reductions in force (RIFs) of April 1, 2025, on the operations of OSH. The April 1 RIFs have brought OSH's work to a halt. These impacts will be felt by the states as well as by their residents, as OSH will no longer be able to support state and territorial health departments for tobacco prevention and control activities, monitor tobacco use trends among youth and adults to guide state efforts, run the Tips from Former Smokers national media campaign, or support state quitlines, among other activities aimed at addressing tobacco prevention and cessation in all populations.

OSH's Mission and Work Prior to April 1, 2025

6. OSH was the lead federal agency for comprehensive tobacco prevention and control and played a critical role in preventing youth tobacco use, which includes smoking, vaping, and usage of other nicotine products, and helping adults to quit smoking. Cigarette smoking is the leading preventable cause of premature death in the United States. More than 28 million U.S. adults smoke cigarettes. OSH worked to prevent and reduce cigarette smoking and other tobacco product use by collecting, studying, and sharing information on cigarette smoking and its effects on health, as mandated by Congress. 15 U.S.C. § 1341 ("Smoking, research, education and information").

7. OSH provided millions of dollars in funding to the National and State Tobacco Control Program to all 50 states, District of Columbia, Puerto Rico, and Guam, 8 U.S. territories and freely associated states, and 26 tribes or tribal organizations. States and territorial health departments used OSH funds to prevent kids from using tobacco products, reduce secondhand smoke exposure, help people quit smoking, monitor tobacco use in their state, and address disparities in tobacco use.

8. OSH committed to educating the public about the harms of tobacco use, including media campaigns such as the Tips from Former Smokers (Tips Campaign). The Tips Campaign ads, which were placed on television, radio, and billboards, encouraged people who smoke to quit by featuring real people with serious health conditions caused by smoking and secondhand smoke exposure. The 2012–2018 Tips Campaign had a significant positive impact on Americans' health. CDC estimated that over 16.4 million people who smoke attempted to quit and approximately one million successfully quit because of the Tips Campaign. People who smoke and who saw Tips Campaign videos reported greater intentions to quit smoking, and former smokers with higher exposure to the ads were associated with lower odds of relapse. The Tips Campaign was credited with helping to prevent early deaths and save precious government resources.

9. OSH maintained the national network of tobacco cessation quitlines to encourage people to quit tobacco use by supporting quitline services in fifty states, two U.S. territories, and the District of Columbia. OSH funded state quitlines to deliver resources such as counseling and medications. The Tips Campaign resulted in a sustained and dramatic increase of calls to quitlines.

10. Further, CDC/OSH and the Division for Cancer Prevention and Control co-funded national networks reaching populations disproportionately affected by cancer. The cooperative agreement sought to increase equitable delivery of tobacco prevention and cancer-related strategies and related interventions.

11. OSH played an important role in surveillance and surveys, including the state-based Behavioral Risk Factor Surveillance System, National Health and Nutrition Examination Survey, and National Youth Tobacco Survey (NYTS). OSH's national surveillance

system provided reliable, consistent, and cost-effective data collection that many states used to evaluate their work and monitor progress in tobacco prevention and cessation. NYTS collected data on tobacco use among high school and middle school students, including which products they were using, how often they used them, and how youth accessed them. Further, OSH made public-use NYTS datasets available to researchers on the CDC website, which were heavily used by external researchers. OSH also monitored tobacco use trends and health impacts in part to inform FDA regulations and enforcement.

12. The first Surgeon General's Report on Smoking and Health was released in 1964, and was a landmark first step to diminish the impact of tobacco use on the health of the American people. Over the course of more than 40 years, OSH was responsible for 35 Surgeon General's reports on the health consequences of smoking and secondhand smoke exposure and strategies to address tobacco use. OSH funded and led the development of these Surgeon General's reports on tobacco, including by managing contracts with external scientific editors for each report; contributing to writing, editing, and review; managing the clearance process; developing plain-language translational materials to communicate the reports' findings to the public; and supporting the Office of the Surgeon General to release the reports. Developing each Surgeon General's report is an enormous and complicated undertaking that takes several years. For instance, the most recent report released in November 2024 addressed disparities in eliminating tobacco-related disease and death. Work began on the report in 2017.

13. Surgeon General's reports serve as a foundation for public health education and provide a scientific basis for public health policies aimed at reducing tobacco use. The 2016 Surgeon General's report on e-cigarette use among youth and young adults was the first report issued by a federal agency to comprehensively review the public health issue of e-cigarettes and

their impact on youth. The reports have been crucial in identifying diseases and conditions causally related to smoking and secondhand smoke exposure, including lung cancer and heart disease, and alerting the public on the serious health consequences of smoking. The reports inform public health policy by providing reliable and evidence-based recommendations for effective cessation treatments and strategies that can be adopted to minimize the harm from tobacco products on an individual and health care systems level. Critical findings emerging from Surgeon General's reports are even used by the tobacco industry in court-ordered disclosures to the public (sometimes called "corrective statements") and will be included in new required cigarette pack labels.

14. During 2019-2020, OSH's subject matter experts supported the response to the e-cigarette, or vaping, product use associated lung injury (EVALI) outbreak and contributed to the identification of its source.

15. OSH scientists published high-quality reports on tobacco use trends that states utilized to prioritize interventions, monitor progress, and reduce disparities. OSH also issued two editions of CDC's *Best Practices for Comprehensive Tobacco Control Programs*, which advise states on how to develop, implement, and fund an evidence-based tobacco control program. OSH likewise dedicated its publications and resources to the "Publication Catalog and Ordering System" where state agencies and other users could access campaign materials and Surgeon General's reports.

16. OSH also maintained the Media Campaign Resource Center, a collection of free and low-cost tobacco education campaign materials available to the tobacco control community, including state health departments. This data portal allowed for states to efficiently use many existing campaign materials, rather than develop individual campaigns.

17. OSH managed a tobacco use data portal which provided access to the latest tobacco prevention and control data, graphs, and maps, as well as the State Tobacco Activities Tracking and Evaluation (STATE) System, which presented data on traditional Medicaid coverage of tobacco cessation treatments in fifty U.S. States and the District of Columbia. This dataset was used by Plaintiff States to assess tobacco cessation policies and served as a national clearinghouse of information for the public.

18. OSH also managed annual submissions of cigarette and smokeless tobacco ingredient reports from manufacturers, packagers, and importers.

19. OSH is largely administered at the federal level by HHS/CDC employees working out of the CDC headquarters.

The April 1, 2025 RIFs and Effects on OSH

20. On April 1, 2025, the remaining 80% of the roughly 120 full-time employees—myself included—were dismissed along with many contract workers who lost their jobs in February. Twenty percent of the staff, including many contract workers and probationary employees, were laid off or forced to retire prior to April 1.

21. The RIFs effectively shut down OSH. All employees who had not already filed for retirement or early retirement received a RIF notice.

22. OSH employees have not received any communication from HHS about the specific reason for OSH's elimination nor any intention to reinstate OSH employees.

The April 1 RIFs Have Devastated OSH's Work

23. The RIFs have effectively halted all of OSH's work because there is no one left in the Office to carry it out and because OSH-funded contracts have been terminated. This includes

many of the OSH's statutorily mandated functions and activities that Congress appropriated funds to OSH to carry out.

24. The RIFs have had an especially damaging effect on OSH's National and State Tobacco Control Program. Because the entire OSH was eliminated, there is no one left within OSH to provide funding or national technical assistance on the best available science. OSH will not be able to advise states on how to develop, implement, and fund an evidence-based tobacco control program.

25. The RIFs have also halted OSH's work to update its guide, *Best Practices for Comprehensive Tobacco Control Programs*. Because the entire OSH was terminated, there is no one left to finalize and publish the latest version of Best Practices, intended for release in 2025. Even if OSH is reinstated, publication will be substantially delayed due to the April 1 RIFs.

26. OSH's work is not and cannot be duplicated elsewhere in CDC or the broader Department of Health and Human Services (HHS).

27. OSH will not be able to provide funding to the states or the Tips Campaign, as OSH had a budget of about \$240 million. OSH and its contractors will no longer manage the Tips Campaign and evaluation.

28. Moreover, OSH will no longer be able to work with states and communities on effective tobacco control prevention and control efforts. States that relied on OSH for the majority of their tobacco funding may lose their programs.

29. Because the entire OSH was eliminated, OSH will not be able to finalize or make public the findings of a Surgeon General Report that was nearing completion. OSH will not have an infrastructure to support the complexity of the process with the Surgeon General's Reports.

The work of numerous external scientists to prepare report chapters, including original data analyses and literature reviews, will be lost.

Conclusion

30. The April 1, 2025 RIFs have incapacitated OSH. Thus, OSH's work in tobacco use prevention is not being completed. Without OSH's expertise, no other agency within CDC or HHS will carry out OSH's functions providing guidance and support in tobacco use prevention. CDC will also be less prepared to respond to outbreaks similar to EVALI in the future.

/s/ Jane Doe 4

Jane Doe 4

Date: May 19, 2025